

SNOW, CHRISTENSEN & MARTINEAU

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December 8, 2010

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Thurman & Sutherland 1886
Thurman, Sutherland & King 1888
Thurman, Wedgwood & Irvine 1906
Irvine, Skeen & Thurman 1923
Skeen, Thurman, Worsley & Snow 1952
Worsley, Snow & Christensen 1967

John H. Snow 1917-1980

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1594 West North Temple, Suite 1210
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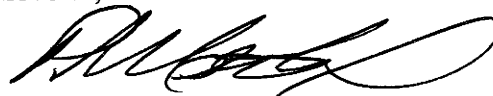
RE: Castle Valley Mining LLC
Application of Transfer Permit (the "Application")
Permit No. C/015/025 (the "Permit")
Objection to Transfer Permit

Gentlemen:

This office represents C.O.P. Coal Development ("COP"), the owner of the fee coal leases and the lessee with the federal government of the federal coal lease that are the subject of the above-referenced Application. COP objects to the transfer of the Permit to Castle Valley Mining, LLC ("Castle Valley") on the following bases: (1) Castle Valley and/or the bankruptcy trustee is in default of the 1997 Coal Operating Agreement attached to the Application because the required property taxes have not been paid; (2) the Application fails to indicate that Bureau of Land Management has required Castle Valley to submit an amended Resource Recovery Protection Plan, as shown by the attached Suspension of Production Decision. COP requests a hearing to address these and other issues in the requested Application.

Very truly yours,

SNOW, CHRISTENSEN & MARTINEAU



P. Matthew Cox

PMC/kmr
Enclosure

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DIV. OF OIL, GAS & MINING

CP 15/025 Incoming

K



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office

P. O. Box 41155

Salt Lake City, Utah 84145-0155



In Reply Please Refer to:

3483 (UT-9223)

LMU UTU-73342,

UTU-024316 UTU-024318,

UTU-46484, UTU-020668,

UTSL-025431, UTSL-069985,

UTU-38727, UTU-51923,

UTU-61048, UTU-61049

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OCT 18 2010

D.V. OF OIL, GAS & MINING

CERTIFIED MAIL – RETURN RECEIPTS REQUESTED 7009 1410 0001 9070 8557
7009 1410 0001 9070 8564

DECISION

Kenneth A. Rushton
U. S. Bankruptcy Trustee
99 West Main Street, P.O. Box 212
Lehi, Utah 84043

Corey Heaps
Castle Valley Mining LLC
2352 N 7th Street, Unit B
Grand Junction, CO 81501

Coal Leases
UTU-024316, UTU-024318,
UTU-46484, UTU-020668,
UTSL-025431, UTSL-069985,
UTU-38727, UTU-51923,
UTU-61048, UTU-61049
LMU UTU-73342

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DEC 08 2010

DIV. OF OIL, GAS & MINING

Suspension of Operations and Production Approved
Lease Terms and Conditions Suspended
Suspension Time Frame Specified

On August 24, 2010, Kenneth A. Rushton, Trustee of the bankruptcy estate of C.W. Mining Company and Castle Valley Mining LLC (referred to collectively in this Suspension Approval as Castle Valley or CV) filed an application with this office for a suspension of operations and production (SOP). The SOP is requested for the above captioned Federal coal leases contained in the Bear Canyon Logical Mining Unit (LMU) UTU-73342.

CV requests this suspension due to the interruption of operations caused by the involuntary bankruptcy of C.W. Mining, which was the original operator of the subject mine, and the termination of operations in June 2009 by a subsequent operator, Hiawatha Coal Company, which CV represents was wrongfully in possession of the mine. CV states that the Trustee did not take possession of the mine until about February 12, 2010, and that for several reasons the Trustee has been and will be prevented from operating the mine. CV further states that the Trustee's successor-in-interest, Castle Valley, will be prevented from operating the mine until it satisfies certain legal requirements and certain actions occur that are beyond its control. CV

requests the suspension from the date mining production ceased in June 2009 through January 31, 2011, to provide sufficient time to prepare the mine for resumption of production.

In accordance with the authority granted to the Secretary by the Mineral Leasing Act (MLA), and pursuant to the regulations in 43 CFR 3483.3 (b), a MLA Section 39 suspension of operations and production is hereby granted "in the interest of conservation" for the Federal coal leases contained in the LMU UTU-73342.

The granting of this SOP is effective July 1, 2009, with the following conditions of approval (COAs):

1. Prior to November 1, 2010 a report shall be submitted to the Division of Lands and Minerals, BLM Utah State Office detailing MSHA requirements that must be met by the operator prior to commencing mining operations. The report shall include what concurrent operations MSHA will allow while MSHA requirements are being satisfied.
2. Assets (longwall, etc) that the operator did not receive ownership in after the bankruptcy may be removed during this suspension.
3. A Resource Recovery and Protection Plan (R2P2) shall be submitted for BLM review and approval prior to December 31, 2010.
4. No beneficial use operations shall occur during this suspension unless:
 - a. The operations are directly related to or incidental to satisfying MSHA requirements or the removal of items in item 2 above.
 - b. **Prior** to conducting beneficial use operations due to MSHA requirements, the Division of Lands and Minerals, BLM Utah State Office, must be notified in writing and **approval granted prior** to commencing operations.
5. Starting November 1, 2010 and due the 15th of each month, CV is required to submit a monthly summary-to-date report of the activities at the Bear Canyon Mine including the Federal leases and all fee lands included in LMU UTU-73342 to the Division of Lands and Minerals, BLM Utah State Office.

The SOP will terminate:

1. The end of the month that the BLM notifies the operator in writing that the operator is in noncompliance with any of the COAs stated above. A 15 day abatement period will be granted to remedy the noncompliance prior to terminating the suspension; or,
2. The end of the month that the BLM notifies the operator in writing that the operator is not diligently conducting operations to return the LMU to production. A 15 day abatement period will be granted to remedy the noncompliance prior to terminating the suspension; or,
3. The suspension will automatically terminate January 31, 2011; unless prior to January 15, 2011 the operator submits in writing why the suspension should be extended. Please be advised that financial issues will not be considered as a reason to extend the suspension.

The following lease terms are suspended during the SOP period:

- Lease rental
- Beneficial use of the lease
- Continued operation production requirements
- Mineral Leasing Act (MLA) Section 2(a)(2)(A) commercial quantities production lessee qualification

The following lease terms are extended for the SOP period:

- MLA Section 2(a)(2)(A) 10 year holding period
- Continued operation year

Once the suspension is terminated the leases will revert back to their original terms and conditions which will include:

- The payment of Lease rentals
- Beneficial use of the leases
- Continued operation production requirements
- Mineral Leasing Act (MLA) Section 2(a)(2)(A) commercial quantities production lessee qualifications

This suspension is granted on condition that the leases in question are in good standing at the time of suspension. If the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOE) finds any of the lease accounts of the coal leases affected by this suspension to not be in good standing, this suspension shall be deemed void *ab initio*.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;

(3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;

(4) Whether the public interest favors granting the stay.

If you have any questions, feel free to contact Roger Bankert (801-539-4037) or Jeff McKenzie (801) 539-4038.

/s/ Juan Palma

Juan Palma
State Director

Enclosure
Form 1842-1

cc: BLM Price Field Office

MSHA
Allyn Davis
District 9 Manager
P.O. Box 25367, DFC
Denver, Colorado 80225-0367

Bureau of Ocean Energy Management, Regulation,
and Enforcement (BOE) *attn:* LeeAnn Martin

Utah Division of Oil, Gas and Mining *attn:* Dana Dean

Manti-La Sal National Forest *attn:* Tom Lloyd

ANR (lessee) by Certified Mail

C.O.P. (lessee) by Certified Mail

2010-08-26BearCanyonSuspensionapprovalJM-SA-9-30-10